

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal Nos. 12-92 & 13-268
	)	
MAYANK MISHRA,	)	Judge Cathy Bissoon
	)	
Defendant.	)	

**ORDER**

Defendant's Motion (Doc. 229 at Criminal No. 13-268) for reduction of sentence, based on COVID-19 related health concerns, is denied.

Assuming Defendant has exhausted administrative remedies, his BMI of 30.8, Def.'s Reply (Doc. 232) at 2, is insufficient to present an extraordinary and compelling reason warranting release. *See U.S. v. Gonzalez*, 2021 WL 662496, \*2 (E.D. Pa. Feb. 19, 2021) (collecting cases in this Circuit holding same). And although Defendant also claims that he suffers from asthma, Def.'s Reply at 2, his prison medical records reflect that he denied having any history of asthma at intake and during his history and physical assessment. Medical Records (Doc. 232-3) at 8. His other claimed impairment, *i.e.*, a permanent respiratory disorder, Def.'s Reply at 2, also is unsupported.<sup>1</sup>

Even assuming Defendant's purported impairments, alone or combined, present significant risk, the Court is required to balance them against the considerations resulting in his original sentence, pursuant to 18 U.S.C. § 3553. Defendant currently is serving a 151-month

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<sup>1</sup> His medical records reflect only that he previously had injured his left pectoral muscle/tendon of wall of thorax, while lifting weights. Medical Records at 3, 5, 10. For that he was placed on certain physical restrictions, *id.* at 6, and he also was told to refrain from weight-lifting for a week, warm up prior to lifting, gradually increase weight and use correct lifting procedure. *Id.* at 11.

sentence, for conspiring to possess with the intent to distribute, and distribute, 1 kilogram or more of heroin. Judgment (Doc. 515 at Criminal No. 12-92). In imposing sentence, the Court noted the serious nature of his offense, and the needs for just punishment, public protection, deterrence and rehabilitation. Those considerations remain salient, and they are not outweighed by the risks associated with Defendant remaining incarcerated.

Therefore, consistent with the above, Defendant's Motion (**Doc. 229 at Criminal No. 13-268**) for reduction of sentence is **DENIED**.

IT IS SO ORDERED.

November 3, 2022

s/Cathy Bissoon

Cathy Bissoon

United States District Judge

cc (via ECF email notification):

All Counsel of Record